

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

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| Mt. Carmel Public Utility Co. | : | |
| | : | 07-0357 |
| Proposed general increase in electric | : | |
| And natural gas rates. (Tariff filed on | : | |
| May 4, 2007). | : | |

**REPLY BRIEF OF THE STAFF OF
THE ILLINOIS COMMERCE COMMISSION**

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The Staff witnesses of the Illinois Commerce Commission (“Staff”), by and through counsel, pursuant to 83 Ill. Adm. Code 200.800, hereby files its Reply Brief in the above-captioned proceeding.

I. INTRODUCTION

Staff’s Initial Brief identified and responded to many of the arguments raised in the Initial Briefs filed by Mount Carmel Public Utility (“MCPU” or the “Company”) and the City of Mount Carmel (the “City”). In this Reply Brief Staff responds only to the extent that MCPU or the City have raised arguments which Staff did not adequately address in Staff’s Initial Brief. Staff continues to rely on its positions and arguments set forth in Staff’s Initial Brief those arguments are incorporated and adopted as if fully set forth herein.

II. ARGUMENT

A. Rate Base

1. Contested Issues

a. Pro Forma Vehicles

The Commission should accept Staff's adjustment to remove the Company's pro forma adjustment for the purchase of a line truck, a service truck, two small utility service trucks and a meter testing van. The evidence fails to demonstrate that the Company's pro forma adjustment for these items reflects a change that is known and measureable and which is reasonably certain to occur within 12 months of the filing date of the tariffs. (ICC Staff Exhibit 8.0, pp. 2-4; 83 Ill. Adm. Code 287.40)

In its Initial Brief, MCPU contends that Staff's adjustment should be rejected because MCPU is not subject to 83 Ill. Adm. Code 287.40. Staff disagrees. For the reasons set forth below, Staff believes 83 Ill. Adm. Code 287.40 does apply to MCPU. However, even if, as a technicality, 83 Ill. Adm. Code 287.40 did not apply to MCPU, there is nothing in the record or legal arguments presented by MCPU to show that the underlying ratemaking principles reflected in 83 Ill. Adm. Code 287.40 should not apply. Furthermore, the Company offered no other framework or standard against which the Commission could evaluate the Company's pro forma adjustments.

The real decision before the Commission is whether MCPU has proven that it is reasonably certain that it will purchase vehicles prior to May 4, 2008. MCPU's rebuttal testimony filed in October 2007 contained statements that caused Staff to question

whether MCPU was reasonably certain to purchase the vehicles by May 4, 2008. In his rebuttal testimony, MCPU witness Dan Long stated: “The Company lacks the funds to make these expenditures until rates have been increased.” Mr. Long also stated: “I have clearly demonstrated the Company did not have these funds, and requires rate relief to follow through with these expenditures.” (MCPU Exhibit 1.0R, p. 15, lines 17-18) These statements, together, cast doubt on the ability of MCPU to purchase the vehicles within the 12-month timeframe.

MCPU, in its Initial Brief, claims that it has taken the necessary steps to mitigate Staff’s concerns regarding the certainty of the vehicle purchase. Since MCPU’s rebuttal cast so much doubt on the reasonable certainty of the vehicle purchase, the introduction in surrebuttal testimony providing the Board of Directors’ approval for the purchase in November 2007 did little to mitigate Staff’s concerns. While the direction from the Board of Directors might indicate the Company’s intentions, it does not demonstrate that it is reasonably certain that the Company will actually acquire the vehicles within the parameters reflected in 83 Ill. Adm. Code 287.40. MCPU’s surrebuttal testimony, which included information regarding Board of Directors’ authorization and the issuance of purchase orders, was not persuasive. The statements in MCPU’s rebuttal testimony described a financial situation that made it unlikely that MCPU would be able to effectuate the purchase prior to receiving new rates and the new information in MCPU’s surrebuttal testimony does not overcome the doubt caused by the rebuttal testimony statements. At the hearing, Ms. Everson indicated that MCPU’s surrebuttal testimony

was not sufficient to change her recommendation to remove the vehicles from MCPU's revenue requirement. (Tr. at 49, lines 12-16; Staff IB at 10)

At the hearing, and subsequent to Ms. Everson's cross-examination, MCPU witness Dan Long sponsored additional documentation in form of confirmations of MCPU's orders from three third party vendors for the purchase of four of the vehicles. (Tr. at 49, lines. 16-22; Staff IB at 10) At this same time, MCPU introduced additional documentation regarding the vehicles into the record. However, due to the late introduction of that documentation, Staff had no opportunity to evaluate the information or respond to it on the record. Thus, the record contains documentation that has not been subjected to Staff's normal review and scrutiny. (Staff IB at 11) Staff continues to recommend disallowance of the pro forma adjustments for the vehicles.

B. Operating Revenues and Expenses

1. Uncontested Issues

a. Affiliate Transactions

MCPU's initial brief indicates that it views this adjustment as contested. Since the Commission approved MCPU's affiliate agreement with Koger & Bramlet, the issue is no longer contested. Staff witness Everson indicated at the hearing that if the affiliate agreement in Docket No. 07-0510 is approved by the Commission, she would withdraw her proposed adjustment to remove the effects of the affiliate transactions from the revenue requirement. (Staff IB at 15)

On December 19, 2007, the Commission approved MCPU's affiliate agreement in Docket No. 07-0510. Therefore, Staff in its Initial Brief, withdrew its adjustments to remove the effects of the affiliate transactions between MCPU and Koger & Bramlet from the revenue requirement.

C. Operating Revenues and Expenses

1. Contested Issues

a. Payroll Expense

Staff maintains that pro forma payroll expense, for personnel not yet hired, is not known and measurable and should be excluded from the Company's electric and gas revenue requirements. (Staff IB at 15-16) The Company contends that a directive from the Company's Board of Directors to take action prior to the deadline imposed by 83 Ill. Adm. Code 287.40 provides enough certainty that the proposed personnel will be hired. (MCPU IB at 11) While this corporate directive might indicate the Company's intentions, it does not demonstrate that it is reasonably certain that the Company will actually hire the remaining personnel within the parameters established by 83 Ill. Adm. Code 287.40. The Company has presented the Commission with insufficient evidence to demonstrate that the Company's pro forma payroll expense adjustment is known and measurable, verifiable on the record, and certain of effectuation. (Commission Order, Docket No. 85-0056, entered November 26, 1985, p.16) The Commission should accept Staff's

adjustment to exclude from the respective electric and gas revenue requirements the payroll expense attributed to the remaining pro forma personnel

D. Cost of Service Study/Rate Design

Staff maintains that the total class revenue increase for the commercial electric space heating service class should be 13.04%. (ICC Staff Ex. CLH 10.01E and Tr. at 38, lines 15-22) The City of Mt. Carmel ("City") contends that the class should receive no rate increase. (City IB at 9) The City references the economic downturn in the community and states that the retention of business in Mt. Carmel is its overarching goal. The City argues that MCPU should structure its rates in favor of small business. (City IB at 9) The City also notes the Cost of Service Study showed that the commercial space heating class should receive a rate decrease. (City IB at 9)

In determining the rate of increase for the commercial electric space heating service class, Staff Witness Harden testified that she considered the Cost of Service Study. (Tr. at 36, lines 9-12) However, it is not standard practice to use the exact results of the Cost of Service Study to design rate. (Tr. at 42, lines 11-14) Ms. Harden testified that in addition to considering the study, she uses personal judgment and tries to prevent rate shock to the other classes of customers. (Tr. at 43, lines 10-11)

The 13.04% increase recommended for the commercial electric space heating service class is the lowest increase recommended for any of MCPU's rate classes. Of the other electric rate classes, there are only two that would receive less than a 20% total class revenue increase. The increase for the remaining classes would be over

20%. (Tr. at 43, lines 13-15) Thus, the increase proposed for the commercial space heating service class is low in relation to the increase proposed for the other classes. (Tr. at 43, lines 16-17) A small rate increase for the commercial electric space heating service class is a better alternative than giving that class a decrease or no increase when that could result in rate shock to the other classes. (Tr. at 43, lines 18-19) The Commission should accept Staff's recommendation of a 13.04 % increase for the commercial electric space heating service class.

III. CONCLUSION

WHEREFORE, for the foregoing reasons, Staff of the Illinois Commerce Commission urges that its recommendations and proposals be adopted in their entirety consistent with the arguments set forth herein.

Respectfully submitted,



January 14, 2008

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